

for each calendar month that the spouse is" in subdiv. (2), and added subdiv. (4).

Subsec. (d)(1)(v). Pub. L. 97-35, §1117(c), added par. (v).  
Subsec. (e)(5). Pub. L. 97-35, §1117(d), substituted "spouse or divorced wife" for "spouse" in two places.

Subsec. (f)(2). Pub. L. 97-35, §1117(e)(1), substituted "spouse's or divorced wife's annuity" for "spouse's annuity" in five places.

Subsec. (f)(3) to (5). Pub. L. 97-35, §1117(e)(2), added subdivs. (3) to (5).

Subsec. (g)(2). Pub. L. 97-35, §1117(f), substituted "such survivor would be charged with" for "such survivor is under the age of seventy-two and is charged with".

Subsec. (h). Pub. L. 97-35, §1117(g), substituted "the spouse or divorced wife of such individual" for "the spouse of such individual" in subdiv. (1), and "If a spouse or divorced wife entitled" for "If a spouse entitled" in subdiv. (3).

#### CHANGE OF NAME

"Secretary of Health and Human Services" substituted for "Secretary of Health, Education, and Welfare" in subsec. (g)(2), pursuant to section 509(b) of Pub. L. 96-88, which is classified to section 3508(b) of Title 20, Education.

#### EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 109-478, §2(b), Jan. 12, 2007, 120 Stat. 3574, provided that: "The amendments made by this section [amending this section] take effect January 1, 2007."

#### EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-280, title X, §1002(b), Aug. 17, 2006, 120 Stat. 1053, provided that: "The amendments made by this section [amending this section] shall take effect 1 year after the date of the enactment of this Act [Aug. 17, 2006]."

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-90 effective Jan. 1, 2002, see section 103(j) of Pub. L. 107-90, set out as a note under section 405 of Title 42, The Public Health and Welfare.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title VII, §7302(c), Nov. 10, 1988, 102 Stat. 3777, provided that: "The amendments made by this section [amending this section] shall apply to annuities payable under the Railroad Retirement Act of 1974 [this subchapter] for months beginning after the date of enactment of this Act [Nov. 10, 1988]."

Pub. L. 100-647, title VII, §7303(b), Nov. 10, 1988, 102 Stat. 3778, provided that: "The amendments made by this section [amending this section] shall apply with respect to months in calendar years beginning after December 31, 1988."

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-76, title I, §104(d), Aug. 12, 1983, 97 Stat. 416, provided that: "The amendments made by this section [amending this section and section 231d of this title] shall be effective with respect to annuities accruing for months after the month in which this Act is enacted [August, 1983] except in the case of a child who has attained the age of eighteen in or before the month in which this Act is enacted and is entitled to an annuity under section 2(d) of the Railroad Retirement Act of 1974 [subsec. (d) of this section] for the month in which this Act is enacted or, if earlier, for the month of April 1983."

Pub. L. 98-76, title I, §106(k), Aug. 12, 1983, 97 Stat. 418, provided that: "The amendments made by this section [amending this section and sections 231c and 231d of this title] shall be effective on the date of the enactment of this Act [Aug. 12, 1983], except that such amendment shall not apply to annuity amounts provided under sections 3(b) and 4(b) of the Railroad Re-

tirement Act of 1974 or to increases in such annuity amounts provided under sections 3(g) and 4(d) of such Act if the individual upon whose earning record such annuity amounts are based rendered service as an employee to an employer, or as an employee representative, before the date of the enactment of this Act."

Pub. L. 98-76, title IV, §409(b), Aug. 12, 1983, 97 Stat. 435, provided that: "The amendment made by this section [amending this section] shall be effective with respect to divorced wife annuities awarded on and after the date of enactment [Aug. 12, 1983]."

Pub. L. 98-76, title IV, §413(b), Aug. 12, 1983, 97 Stat. 436, provided that: "The amendment made by this section [amending this section] shall apply with respect to annuities that first begin to accrue with respect to any month beginning after the date of the enactment of this Act [Aug. 12, 1983]."

Pub. L. 98-76, title IV, §414(b), Aug. 12, 1983, 97 Stat. 436, provided that: "The amendments made by this section [amending this section] shall apply with respect to months beginning after the date of the enactment of this Act [Aug. 12, 1983]."

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 1117(a) of Pub. L. 97-35 effective Oct. 1, 1981, and applicable with respect to individuals whose supplemental annuity closing date under subsec. (b) of this section did not occur before Oct. 1, 1981, amendment by section 1117(e)(2), (f) of Pub. L. 97-35 effective Jan. 1, 1982, and amendment by other provisions of section 1117 of Pub. L. 97-35 effective Oct. 1, 1981, and applicable with respect to annuities awarded on or after Oct. 1, 1981, see section 1129 of Pub. L. 97-35, set out as a note under section 231 of this title.

#### SPECIAL \$50 PAYMENT UNDER TAX REDUCTION ACT OF 1975

Special payment of \$50 as soon as practicable after Mar. 29, 1975, by Secretary of the Treasury to each individual who, for month of March 1975, was entitled to a monthly annuity or pension payment under this subchapter, see section 702 of Pub. L. 94-12, set out as a note under section 402 of Title 42, The Public Health and Welfare.

### § 231b. Computation of annuities

#### (a) Amount

(1) The annuity of an individual under section 231a(a)(1) of this title shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the old-age insurance benefit or disability insurance benefit to which such individual would have been entitled under the Social Security Act [42 U.S.C. 301 et seq.] if all of his or her service as an employee after December 31, 1936, had been included in the term "employment" as defined in that Act.

(2) For purposes of this subsection, individuals entitled to an annuity under section 231a(a)(1)(ii) of this title shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act [42 U.S.C. 415(f)], be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act [42 U.S.C. 416(l)]). For purposes of this subsection, individuals entitled to an annuity under paragraph (iv) or (v) of section 231a(a)(1) of this title shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act [42 U.S.C. 423].

(3) If an individual entitled to an annuity under section 231a(a)(1)(i) or (iii) of this title on the basis of less than ten years of service is enti-

tled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act [42 U.S.C. 402(a), (b), (c)] which began to accrue before the annuity under section 231a(a)(1)(i) or (iii) of this title, the annuity amount provided such individual under this subsection, shall be computed as though the annuity under this subchapter began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began, or (B) the date on which the individual first met the conditions for entitlement to an age reduced annuity under this subchapter other than the conditions set forth in sections 231a(e)(1) and 231a(e)(2) of this title and the requirement that an application be filed.

**(b) Increased annuities under subsection (a)**

(1) The amount of the annuity of an individual provided under subsection (a) of this section shall be increased by an amount equal to sevenths of 1 per centum of the product which is obtained by multiplying such individual's "years of service" by such individual's "average monthly compensation" as determined under this subsection. The annuity amount payable to the individual under this subsection shall be reduced by 25 per centum of the annuity amount computed for such individual under subsection (h)(1) or (h)(2), and subsection (h)(5), of this section without regard to section 231f(c)(1) of this title. An individual's "average monthly compensation" for purposes of this subsection shall be the quotient obtained by dividing by 60 such individual's total compensation for the 60 months, consecutive or otherwise, during which such individual received that individual's highest monthly compensation, except that no part of any month's compensation in excess of the maximum amount creditable for any individual for such month under subsection (j) of this section shall be recognized. In determining the months of compensation to be used for purposes of this subsection, the total compensation reported for the individual under section 231h of this title or credited to such individual under subsection (j) of this section for a year divided by the number of months of service credited to such individual under subsection (i) of this section with respect to such year shall be considered the monthly compensation of the individual for each month of service in any year for which records of the Board do not show the amount of compensation paid to the individual on a monthly basis. If the "average monthly compensation" computed under this subsection is not a multiple of \$1, it shall be rounded to the next lower multiple of \$1.

(2) For purposes of subdivision (1) of this subsection, in determining "average monthly compensation" for an individual who has not engaged in employment for an employer in the 60-month period preceding the month in which such individual's annuity began to accrue, and whose major employment during such 60-month period was for a United States department or agency named in section 231(o) of this title, the amount of compensation used with respect to each month used in making such determination shall be the product of—

(i) the compensation credited to such individual for such month under paragraph (1) of this subsection; and

(ii) the quotient obtained by dividing—

(I) the average of total wages (as determined under section 215(b)(3)(A)(ii)(I) of the Social Security Act [42 U.S.C. 415(b)(3)(A)(ii)(I)]) for the second calendar year preceding the earliest of the year of the individual's death or the year in which an annuity begins to accrue to such individual (disregarding an annuity based on disability which is terminated because such individual has recovered from such disability if such individual engages in any regular employment after such termination); by

(II) the average of total wages (as determined under section 215(b)(3)(A)(ii)(II) of the Social Security Act [42 U.S.C. 415(b)(3)(A)(ii)(II)]) for the calendar year during which such month occurred, unless such month occurred prior to calendar year 1951, in which case, the average of total wages so determined for 1951.

In no event shall "average monthly compensation" determined for an individual under this subdivision exceed the maximum "average monthly compensation" which can be determined under subdivision (1) of this subsection for any person retiring January 1 of the year in which such individual's annuity began to accrue.

**(c), (d) Repealed. Pub. L. 97-35, title XI, § 1118(b), Aug. 13, 1981, 95 Stat. 631**

**(e) Supplemental annuities**

The supplemental annuity of an individual under section 231a(b) of this title shall be \$23 plus an additional amount of \$4 for each year of service that the individual has in excess of 25 years, but in no case shall the supplemental annuity exceed \$43.

**(f) Reductions in annuities**

(1) If, in the case of an individual whose annuity under section 231a(a)(1) of this title began to accrue prior to January 1, 1983, the annuity (before any reduction due to such individual's entitlement to a monthly insurance benefit under the Social Security Act [42 U.S.C. 301 et seq.] and disregarding any amount provided by subsection (h) of this section) plus the supplemental annuity to which such individual is entitled for any month under this subchapter, together with the annuity, if any, of the spouse of such individual (before any reduction due to such spouse's entitlement to a wife's or husband's insurance benefit under the Social Security Act and disregarding any amount provided by section 231c(e) of this title), before any reductions under the provisions of section 231a(f) of this title is less than the total amount which would have been payable to such individual and his spouse for such month, on the basis of the individual's compensation and years of service, under the provisions of the Railroad Retirement Act of 1937 as in effect on December 31, 1974 [45 U.S.C. 228a et seq.], disregarding, for purposes of the computations under such Railroad Retirement Act of 1937 compensation for any month

after December 31, 1974, in excess of one-twelfth of the maximum annual taxable "wages" (as defined in section 3121 of the Internal Revenue Code of 1986 [26 U.S.C. 3121]) for the calendar year 1974, the annuity of such individual and the annuity of such spouse, if any, shall be increased proportionately so as to equal such total amount. For the purpose of computing amounts under this subdivision, the Board shall have the authority to approximate the effect of the reductions prescribed by sections 3(a)(2) and 3(a)(3) of the Railroad Retirement Act of 1937 [45 U.S.C. 228c(a)(2), (a)(3)]. For purposes of computing amounts payable under the Railroad Retirement Act of 1937, any increases in the amounts determined under the first proviso of section 3(e) of such Act which would have become effective after December 31, 1974, shall be disregarded.

(2) If for any month in which an annuity accrues and is payable under this subchapter the annuity to which an individual is entitled under this subchapter (or would have been entitled except for a reduction pursuant to a joint and survivor election), together with the annuity, if any, of the spouse and divorced wife of such individual, is less than the total amount, or the additional amount, which would have been payable to all persons for such month under the Social Security Act [42 U.S.C. 301 et seq.] if such individual's service as an employee after December 31, 1936, were included in the term "employment" as defined in that Act, the annuities of the individual and spouse shall be increased proportionately to such total amount, or such additional amount: *Provided, however,* That if an annuity accrues to an individual or a spouse for a part of a month, the amount payable for such part of a month under this subdivision shall be one-thirtieth of the amount payable under this subdivision for an entire month, multiplied by the number of days in such part of a month. For purposes of this subdivision, (i) persons not entitled to an annuity under section 231a of this title shall not be included in the computation under this subdivision except a spouse who could qualify for an annuity under section 231a(c) of this title if the individual from whom the spouse's annuity under this subchapter would derive had attained age 60 or 62, as the case may be, and such individual's children who meet the definition as such contained in section 216(e) of the Social Security Act [42 U.S.C. 416(e)]; (ii) after an annuity has been certified for payment and this subdivision was inapplicable after allowing for any waiting period under section 223(c)(2) of the Social Security Act [42 U.S.C. 423(c)(2)], and after having considered the inclusion of all persons who were then eligible for inclusion in the computation under this subdivision, or was then applicable but later became inapplicable, any recertification in such annuity under this subdivision shall not take into account persons not entitled to an annuity under section 231a of this title except a spouse who could qualify for an annuity under section 231a(c) of this title when she attains age 60 or 62, as the case may be, if the individual from whom the spouse's annuity would derive had attained age 60 or 62, as the case may be, and who was married to such individual at the time he applied for his annuity; and (iii) in computing the

amount to be paid under this subdivision the only benefits under title II of the Social Security Act [42 U.S.C. 401 et seq.] which shall be considered shall be those to which the persons included in the computation are entitled.

**(g) Increased annuities under subsection (b)**

(1) Effective with the date of any increase after January 31, 1984, in monthly insurance benefits under the Social Security Act [42 U.S.C. 301 et seq.] which occurs, or which would have occurred had there not been a general benefit increase under that Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act [42 U.S.C. 415(i)], that portion of the annuity of an individual which is computed under subsection (b) of this section shall, if such individual's annuity under section 231a(a)(1) of this title began to accrue on or before the effective date of a particular increase under this subdivision, be increased by 32.5 per centum of the percentage increase in the index which is used, or which would have been used had there not been a general benefit increase under the Social Security Act, in increasing benefits under the Social Security Act pursuant to the automatic cost-of-living provisions of section 215(i) of that Act. Any increase under this subsection shall not be deferred and shall be reflected in all payments made to annuitants after such increase under this subsection becomes effective.

(2) The first and, if necessary, the following time or times after January 1, 1983, that monthly insurance benefits under section 202 of the Social Security Act [42 U.S.C. 402] are increased, that portion of the annuity of an individual which is computed under subsection (b) of this section as increased under subdivision (1) of this subsection shall, if such individual's annuity under section 231a(a)(1) of this title began to accrue in or before the year in which such first increase under the Social Security Act [42 U.S.C. 301 et seq.] became effective, be reduced by the dollar amount by which that portion of the annuity provided such individual under subsection (a) of this section was increased, after any reduction under subsection (m) of this section, as a result of such increase or increases under the Social Security Act until the total dollar amount of such reduction or reductions equals 5 per centum of the annuity amount provided such individual under subsection (a) of this section, as reduced under subsection (m) of this section, prior to such first increase. In no case shall the reduction by reason of this paragraph operate to reduce such portion to an amount less than \$10.

**(h) Increased annuities under subsections (a) and (b)**

(1) The amount of the annuity provided under subsections (a) and (b) of this section of an individual who (A) will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 231a(a)(1) of this title began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) will have (i) completed ten years of service prior to January 1, 1975, and (ii) been permanently insured under the Social Security Act [42 U.S.C.

301 et seq.] on December 31, 1974, shall be increased by an amount equal to the amount by which (C) the sum of (i) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, if his service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term "employment" as defined in that Act and if he had no wages or self-employment income under that Act other than wages derived from such service as an employee, and (ii) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, exceeds (D) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term "employment" as defined in that Act.

(2) The amount of the annuity provided under subsections (a) and (b) of this section to an individual who (A) will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (1) of this subsection, but (B) will have (i) completed ten years of service prior to January 1, 1975, and (ii) been permanently insured under the Social Security Act [42 U.S.C. 301 et seq.] as of December 31 of the calendar year prior to 1975 in which he last rendered service as an employee to an employer, or as an employee representative, shall be increased by an amount equal to the amount by which (C) the sum of (i) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, if his service as an employee after December 31, 1936, and prior to January 1, 1975, were included in the term "employment" as defined in that Act and if he had no wages or self-employment income under that Act other than wages derived from such service as an employee, and (ii) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which he last performed service as an employee under this subchapter, exceeds (D) the primary insurance amount to which such individual would have been entitled, upon the attainment of age 65 (or, if later, for January

1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of his wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which he last performed service as an employee under this subchapter and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term "employment" as defined in that Act.

(3) The amount of the annuity provided under subsections (a) and (b) of this section of an individual who (A) will have (i) rendered service as an employee to an employer, or as an employee representative, during the calendar year 1974, or (ii) had a current connection with the railroad industry on December 31, 1974, or at the time his annuity under section 231a(a)(1) of this title began to accrue, or (iii) completed twenty-five years of service prior to January 1, 1975, and (B) will have completed ten years of service prior to January 1, 1975, and is the wife, husband, widow, or widower of a person who will have been permanently insured under the Social Security Act [42 U.S.C. 301 et seq.] on December 31, 1974, shall be increased by an amount equal to the smaller of (C) the wife's, husband's, widow's, or widower's insurance benefit to which such individual would have been entitled, upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such person's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, or (D) the primary insurance amount to which such individual would have been entitled upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such individual's wages and self-employment income derived from employment and self-employment under that Act prior to January 1, 1975, and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term "employment" as defined in that Act.

(4) The amount of the annuity provided under subsections (a) and (b) of this section of an individual who (A) will not have met the conditions set forth in subclause (i), (ii), or (iii) of clause (A) of subdivision (3) of this subsection, but (B) will have completed ten years of service prior to January 1, 1975, and is the wife, husband, widow, or widower of a person who will have been permanently insured under the Social Security Act [42 U.S.C. 301 et seq.] as of December 31 of the calendar year prior to 1975 in which such individual last rendered service as an employee to an employer, or as an employee representative, shall be increased by an amount equal to the smaller of (C) the wife's, husband's, widow's, or widower's insurance benefit to which such individual would have been entitled, upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such person's wages and self-employment income derived

from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which such individual last performed service as an employee under this subchapter or (D) the primary insurance amount to which such individual would have been entitled upon attaining age 65 (or, if later, for January 1975), under the provisions of the Social Security Act as in effect on December 31, 1974, on the basis of such individual's wages and self-employment income derived from employment and self-employment under that Act as of December 31 of the calendar year prior to 1975 in which such individual last performed service as an employee under this subchapter and on the basis of compensation derived from service as an employee after December 31, 1936, and prior to January 1, 1975, if such service as an employee had been included in the term "employment" as defined in that Act.

(5) The amount computed under subdivision (1), (2), (3), or (4) of this subsection shall be increased by the same percentage, or percentages, as benefits under the Social Security Act [42 U.S.C. 301 et seq.] are increased, or would have been increased had there been no general benefit increases under the Social Security Act, pursuant to the automatic cost-of-living provisions of section 215(i) of that Act [42 U.S.C. 415(i)] during the period from January 1, 1975, to the earlier of the date on which the individual's annuity under section 231a(a)(1) of this title began to accrue or January 1, 1982.

(6) No amount shall be payable to an individual under subdivision (3) or (4) of this subsection unless the entitlement of such individual to such amount had been determined prior to August 13, 1981.

**(i) Years of service**

(1) The "years of service" of an individual shall include all his service subsequent to December 31, 1936.

(2) The "years of service" of an individual shall also include his voluntary or involuntary military service, within or without the United States, during any war service period: *Provided, however,* That such military service shall be included only if, prior to the beginning of his military service and in the same calendar year in which such military service began, or in the next preceding calendar year, the individual rendered service for compensation to an employer or to a person service to which is otherwise creditable under this subchapter, or lost time as an employee for which he received remuneration, or was serving as an employee representative: *Provided further,* That such military service shall be included only subject to and in accordance with the provisions of subdivisions (1) and (3) of this subsection in the same manner as though military service were service rendered as an employee: *And provided further,* That such military service rendered after December 1956 shall not be included with respect to any month if (A) any benefits are payable for that month under the Social Security Act [42 U.S.C. 301 et seq.] on the basis of such individual's wages and self-employment income, (B) such military service was included in the computation of such benefits, and (C) the inclusion of such military serv-

ice in the computation of such benefits resulted (for that month) in benefits not otherwise payable or in an increase in the benefits otherwise payable: *And provided further,* That an individual who entered military service prior to a war service period shall not be regarded as having been in military service in a war service period with respect to any part of the period for which he entered such military service.

(3) The "years of service" of an individual who was an employee on August 29, 1935, shall, if the total number of his "years of service" as determined under subdivisions (1) and (2) is less than thirty, also include his service prior to January 1, 1937, but not so as to make his total years of service exceed thirty: *Provided, however,* That with respect to any such individual who rendered service to any employer subsequent to December 31, 1936, and who on August 29, 1935, was not an employee of an employer conducting the principal part of its business in the United States, no greater proportion of his service rendered prior to January 1, 1937, shall be included in his "years of service" than the proportion which his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this subchapter) for service subsequent to December 31, 1936, rendered anywhere to an employer conducting the principal part of its business in the United States or rendered in the United States to any other employer bears to his total compensation (without regard to any limitation on the amount of compensation otherwise provided in this subchapter) for service rendered anywhere to an employer subsequent to December 31, 1936. Where the "years of service" include only part of the service prior to January 1, 1937, the part included shall be taken in reverse order beginning with the last calendar month of such service.

(4) Where for any calendar year after 1984 an individual has performed service for compensation in less than twelve months of the calendar year but has received compensation in excess of an amount determined by multiplying the number of months in the year in which such individual performed service for compensation by an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1986 [26 U.S.C. 3121], the individual shall be deemed to have rendered service for compensation in that number of months in the calendar year, but not to exceed twelve, which is equal to the quotient of the amount of such individual's compensation for the calendar year divided by an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1986, with any remainder produced by this computation increasing the quotient by one, but an individual shall not be deemed under this subdivision to have rendered service for compensation in any month in which such individual was neither in an employment relation to one or more employers nor an employee representative.

**(j) Average monthly compensation**

The "average monthly compensation" shall be computed in the manner specified in subsection (b) of this section, except (1) that with respect

to service prior to January 1, 1937, the monthly compensation shall be the average compensation paid to an employee with respect to calendar months included in his years of service in the years 1924–1931, and (2) the amount of compensation paid or attributable as paid to him with respect to each month of service before September 1941 as a station employee whose duties consisted of or included the carrying of passengers' hand baggage and otherwise assisting passengers at passenger stations and whose remuneration for service to the employer was, in whole or in substantial part, in the forms of tips, shall be the monthly average of the compensation paid to him as a station employee in his months of service in the period September 1940 through August 1941: *Provided, however,* That where service in the period 1924 through 1931 in the one case, or in the period September 1940 through August 1941 in the other case, is, in the judgment of the Board, insufficient to constitute a fair and equitable basis for determining<sup>1</sup> the amount of compensation paid or attributable as paid to him in each month of service before 1937, or September 1941, respectively, the Board shall determine the amount of such compensation for each such month in such manner as in its judgment shall be fair and equitable. In computing the monthly compensation, no part of any month's compensation in excess of \$300 for any month before July 1, 1954, or in excess of \$350 for any month after June 30, 1954, and before June 1, 1959, or in excess of \$400 for any month after May 31, 1959, and before November 1, 1963, or in excess of \$450 for any month after October 31, 1963, and before October 1, 1965, or in excess of (i) \$450, or (ii) an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1986 [26 U.S.C. 3121], whichever is greater, for any month after September 30, 1965, shall be recognized. If for any calendar year after 1984 an employee has received compensation of less than one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1986 in one or more months of the calendar year, the total compensation paid such employee in the calendar year (without regard to the limitation on the amount of compensation provided in the preceding sentence) shall be deemed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in the service of one or more employers for compensation or will have performed service for compensation as an employee representative, but this sentence shall not operate to increase the employee's compensation for any month above an amount equal to one-twelfth of the current maximum annual taxable "wages" as defined in section 3121 of the Internal Revenue Code of 1986. If the employee earned compensation in service after June 30, 1937, and after the last day of the calendar year in which he attained age sixty-five, such compensation and service shall be disregarded in computing the average monthly compensation if the result of taking such compensation into account in such computation would be to diminish his annuity.

<sup>1</sup> So in original. Probably should be "determining".

Where an employee claims credit for months of service rendered within two years prior to his retirement from the service of an employer, with respect to which the employer's return pursuant to section 231h of this title has not been entered on the records of the Board before the employee's annuity could otherwise be certified for payment, the Board may, in its discretion (subject to subsequent adjustment at the request of the employee) include such months in the computation of the annuity without further verification and may consider the compensation for such months to be the average of the compensation for months in the last period for which the employer has filed a return of the compensation of such employee and such return has been entered on the records of the Board.

**(k) Employee representatives**

The annuity of an individual who shall have been an employee representative shall be determined in the same manner and with the same effect as if the employee organization by which he shall have been employed were an employer.

**(l) Reductions for increased annuities**

(1) Except as provided in subdivision (2) of this subsection, if an annuity awarded under section 231a(a)(1)(iii) of this title or under section 231a(c)(2) of this title is increased or decreased either by a change in the law or by a recomputation, the reduction on account of age in the amount of such increase or decrease shall be computed as though such increased or decreased annuity amount had been in effect for and after the month in which the annuitant first became entitled to such annuity under section 231a(a)(1)(iii) or section 231a(c)(2) of this title.

(2) The reduction required under section 231a(a)(1)(iii) or section 231a(c)(2) of this title may be applied separately to each of the annuity amounts computed under subsections (a), (b), and (h) of this section and subsections (a), (b), and (e) of section 231c of this title. For this purpose, in any case in which an annuity amount was computed for an individual under the provisions of this subchapter or of Public Law 93-445 prior to October 1, 1981, an annuity amount computed under subsections (a), (b), (c), (d) and (h) of this section, subsection (a), (b), or (e) of section 231c of this title, and section 204 or section 206 of Public Law 93-445 shall be reduced by its proportionate share of the reduction on account of age. For purposes of the preceding sentence, annuity amounts computed for an individual under subsections (b), (c), and (d) of this section prior to October 1981 shall be considered as one annuity amount.

**(m) Reductions due to monthly social security payments**

The annuity of any individual under subsection (a) of this section for any month shall, after any reduction pursuant to paragraph (iii) of section 231a(a)(1) of this title, be reduced, but not below zero, by the amount of any monthly benefit (before any deductions on account of work) payable to that individual for that month under title II of the Social Security Act [42 U.S.C. 401 et seq.].

(Aug. 29, 1935, ch. 812, §3, as restated June 24, 1937, ch. 382, pt. I, 50 Stat. 307, as restated Pub.

L. 93-445, title I, §101, Oct. 16, 1974, 88 Stat. 1319; amended Pub. L. 95-216, title III, §358(a), Dec. 20, 1977, 91 Stat. 1556; Pub. L. 96-582, §1, Dec. 23, 1980, 94 Stat. 3374; Pub. L. 97-35, title XI, §1118, Aug. 13, 1981, 95 Stat. 630; Pub. L. 98-76, title I, §101(a), 102(a), 107(a), (b), title IV, §§404(1), (2), 405(a), Aug. 12, 1983, 97 Stat. 411, 413, 418, 434, 435; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 107-90, title I, §§102(a), (c), 103(b), 104(a)(1), (2)(A), Dec. 21, 2001, 115 Stat. 879, 880, 882.)

## REFERENCES IN TEXT

The Social Security Act, referred to in subsecs. (a)(1), (f), (g), (h)(1) to (5), (i)(2), and (m), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended, which is classified generally to chapter 7 (§301 et seq.) of Title 42, The Public Health and Welfare. Title II of the Act is classified generally to subchapter II (§401 et seq.) of chapter 7 of Title 42. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

The Railroad Retirement Act of 1937, referred to in subsec. (f)(2), is act Aug. 29, 1935, ch. 812, 49 Stat. 867, as amended generally by act June 24, 1937, ch. 382, part I, 50 Stat. 307, which is classified principally to subchapter III (§228a et seq.) of this chapter. The Railroad Retirement Act of 1937 was amended generally and redesignated the Railroad Retirement Act of 1974 by Pub. L. 93-445, title I, Oct. 16, 1974, 88 Stat. 1305. The Railroad Retirement Act of 1974 is classified generally to this subchapter. For complete classification of these Acts to the Code, see Tables.

Section 3 of the Railroad Retirement Act of 1937, referred to in subsec. (f)(2), which was classified to section 228c of this title, has been omitted from the Code.

Sections 204 and 206 of Public Law 93-445 (approved Oct. 16, 1974, 88 Stat. 1352, 1354), referred to in subsec. (b)(2), are set out as part of the Transitional Provisions note under section 231 of this title.

## AMENDMENTS

2001—Subsec. (a)(2). Pub. L. 107-90, §102(a), inserted after par. designation “For purposes of this subsection, individuals entitled to an annuity under section 231a(a)(1)(ii) of this title shall, except for the purposes of recomputations in accordance with section 215(f) of the Social Security Act, be deemed to have attained retirement age (as defined by section 216(l) of the Social Security Act).”

Subsec. (a)(3). Pub. L. 107-90, §103(b), added par. (3).

Pub. L. 107-90, §102(c), struck out par. (3) which read as follows: “In lieu of an annuity amount provided under subdivision (1), the annuity of an individual entitled to an annuity under paragraph (ii) of section 231a(a)(1) of this title which begins to accrue before the individual attains age 62 shall be in an amount equal to—

“(i) for each month prior to the first month throughout which the individual is age 62, the amount (after any reduction on account of age but before any deductions on account of work) of the old-age insurance benefit to which such individual would have been entitled under the Social Security Act as of the date on which such individual’s annuity begins to accrue if such individual had attained age 62 on the first day of the month in which his or her annuity begins to accrue and if all of such individual’s service as an employee after December 31, 1936, had been included in the term ‘employment’ as defined in that Act, using for purposes of this computation the number of benefit computation years applicable to a person born in the year in which such individual was born; and

“(ii) for months beginning with the first month throughout which the individual is age 62, the amount (after any reduction on account of age but before any deductions on account of work) of the old-age insurance benefit to which such individual would

have been entitled under the Social Security Act if all of such individual’s service as an employee after December 31, 1936, had been included in the term ‘employment’ as defined in that Act.”

Subsec. (f). Pub. L. 107-90, §104(a)(1), (2)(A), redesignated pars. (2) and (3) as (1) and (2), respectively, struck out “, without regard to the provisions of subdivision (1) of this subsection,” before “proportionately so as to equal” in first sentence of par. (1), and struck out former par. (1) which read as follows: “If the total amount of an individual’s annuity and supplemental annuity computed under the preceding subsections of this section would, before any reductions on account of age, before any reduction due to such individual’s entitlement to a monthly insurance benefit under the Social Security Act, and disregarding any increases in such total amount which become effective after the date on which such individual’s annuity under section 231a(a)(1) of this title begins to accrue, exceed an amount equal to the sum of (A) 100 per centum of his ‘final average monthly compensation’ up to an amount equal to 50 per centum of one-twelfth of the maximum annual taxable ‘wages’ (as defined in section 3121 of the Internal Revenue Code of 1986) for the calendar year in which such individual’s annuity under section 231a(a)(1) of this title begins to accrue, plus (B) 80 per centum of so much of his ‘final average monthly compensation’ as exceeds 50 per centum of one-twelfth of the maximum annual taxable ‘wages’ (as defined in section 3121 of the Internal Revenue Code of 1986) for the calendar year in which such individual’s annuity under section 231a(a)(1) of this title begins to accrue, the supplemental annuity of such individual first, and then, if necessary, the annuity amount of such individual as computed under subsection (b) of this section, shall be reduced until such total amount of such individual’s annuity and supplemental annuity equals such sum or until such supplemental annuity and such annuity amount computed under subsection (b) of this section are reduced to zero, whichever occurs first: *Provided, however,* That the provisions of this subdivision shall not operate to reduce the total amount of an individual’s annuity and supplemental annuity computed under the preceding subsections of this section below \$1,200. For purposes of this subdivision, the ‘final average monthly compensation’ of an individual shall except as provided in the following sentence be determined by dividing the total compensation received by such individual in the two calendar years, consecutive or otherwise, in which he was credited with the highest total compensation during the ten-year period ending with December 31 of the year in which such individual’s annuity under section 231a(a)(1) of this title begins to accrue by 24. If the individual’s ‘average monthly compensation’ is determined under subdivision (2) of subsection (b) of this section, the ‘final average monthly compensation’ for such individual shall be the average of the compensation for the 24 months in which the compensation determined for the purpose of subdivision (2) of subsection (b) of this section is the highest. For purposes of this subdivision, the term ‘compensation’ shall include ‘compensation’ as defined in section 231(h) of this title, ‘wages’ as defined in section 209 of the Social Security Act, ‘self-employment income’ as defined in section 211(b) of the Social Security Act, and wages deemed to have been paid under section 217 or 229 of the Social Security Act on account of military service: *Provided, however,* That in no case shall the compensation with respect to any calendar month exceed the limitation on the compensation for such month prescribed in subsection (j) of this section. Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977.”

1986—Subsecs. (f)(1), (2), (i)(4), (j). Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954” wherever appearing.

1983—Subsec. (a)(2). Pub. L. 98-76, §101(a)(1), amended par. (2) generally, substituting provisions that for purposes of this subsection, individuals entitled to an annuity under section 231a(a)(1)(iv) or (v) of this title shall be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act, for provisions that for purposes of this subsection, individuals entitled to an annuity under paragraph (ii) of section 231a(a)(1) of this title would except for purposes of recomputations in accordance with the provisions of section 215(f) of the Social Security Act, be deemed to have attained age 65, and individuals entitled to an annuity under paragraph (iv) or (v) of such section 231a(a)(1) of this title would be deemed to be entitled to a disability insurance benefit under section 223 of the Social Security Act.

Subsec. (a)(3). Pub. L. 98-76, §101(a)(2), added par. (3).

Subsec. (f)(1). Pub. L. 98-76, §404(1), inserted “except as provided in the following sentence” in sentence relating to the determination of the “final average monthly compensation” of an individual.

Pub. L. 98-76, §404(2), inserted “If the individual’s ‘average monthly compensation’ is determined under subdivision (2) of subsection (b) of this section, the ‘final average monthly compensation’ for such individual shall be the average of the compensation for the 24 months in which the compensation determined for the purpose of subdivision (2) of subsection (b) of this section is the highest.”

Subsec. (f)(3). Pub. L. 98-76, §405(a), in first sentence, inserted “and divorced wife” after “of the spouse”, and substituted “the annuities of the individual and spouse” for “such annuity or annuities”.

Subsec. (g). Pub. L. 98-76, §102(a), amended subsec. (g) generally. Prior to amendment, subsec. (g) read as follows: “Effective with the month of June for any year after 1981, that portion of the annuity of an individual which is computed under subsection (b) of this section shall, if such individual’s annuity under section 231a(a)(1) of this title began to accrue on or before June 1 of such year, be increased by 32.5 per centum of the percentage increase, if any (rounded to the nearest one-tenth of 1 per centum), obtained by comparing (A) the unadjusted Consumer Price Index for the calendar quarter ending March 31 of such year with (B) the higher of (i) such index for the calendar quarter ending March 31 of the year immediately preceding such year or (ii) such index for the calendar quarter ending March 31 of any preceding year after 1980. The unadjusted Consumer Price Index for any calendar quarter shall be the arithmetical mean of such index for the three months in such quarter.”

Subsec. (i)(4). Pub. L. 98-76, §107(a), added par. (4).

Subsec. (j). Pub. L. 98-76, §107(b), inserted provision that if for any calendar year after 1984 an employee has received compensation of less than one-twelfth of the current maximum annual taxable “wages” as defined in section 3121 of the Internal Revenue Code of 1954 in one or more months of the calendar year, the total compensation paid such employee in the calendar year (without regard to the limitation on the amount of compensation provided in the preceding sentence) shall be deemed to have been paid in equal proportions with respect to all months in the year in which the employee will have been in the service of one or more employers for compensation or will have performed service for compensation as an employee representative, but this sentence shall not operate to increase the employee’s compensation for any month above an amount equal to one-twelfth of the current maximum annual taxable “wages” as defined in section 3121 of the Internal Revenue Code of 1954.

1981—Subsec. (b). Pub. L. 97-35, §1118(a), substituted new criteria for computation of increase in annuity of an individual provided under subsec. (a) of this section.

Subsec. (c). Pub. L. 97-35, §1118(b), repealed subsec. (c) which provided for amount of increase of annuity of an

individual entitled to an annuity under section 231a(a)(1) of this title and who rendered service as an employee to an employer, or as an employee representative subsequent to Dec. 31, 1974.

Subsec. (d). Pub. L. 97-35, §1118(b), repealed subsec. (d) which prescribed a formula for increase in amount of annuity of an individual provided for in other provisions of this section.

Subsec. (f)(1). Pub. L. 97-35, §1118(c)(2), substituted “such individual’s annuity under section 231a(a)(1) of this title begins to accrue, exceed an amount equal to the sum of (A)” for “such begins to accrue, exceed an amount equal to the sum of individual’s annuity under section 231a(a)(1) of this title (A)”.

Pub. L. 97-35, §1118(c)(1), substituted “subsection (b) of this section” for “subsections (b), (c), and (d) of this section” in two places.

Subsec. (g). Pub. L. 97-35, §1118(d), substituted new formula for increase of portion of annuity of an individual computed under subsec. (b) of this section for formula for increase of portions of annuity of an individual computed under subsecs. (b) and (d) of this section, and revised effective dates for such increases.

Subsec. (h)(1) to (4). Pub. L. 97-35, §1118(e)(1), substituted “subsections (a) and (b) of this section” for “subsections (a) through (d) of this section” in subdivs. (1) to (4).

Subsec. (h)(5). Pub. L. 97-35, §1118(e)(2), substituted “January 1, 1975, to the earlier of the date on which the individual’s annuity under section 231a(a)(1) of this title began to accrue or January 1, 1982” for “January 1, 1975, to the date on which the individual’s annuity under section 231a(a)(1) of this title began to accrue”.

Subsec. (h)(6). Pub. L. 97-35, §1118(e)(3), added subdiv. (6).

Subsec. (j). Pub. L. 97-35, §1118(f), substituted definition of average monthly compensation by reference to computation in manner specified in subsec. (b) of this section, for definition by reference to average compensation paid to an employee with respect to calendar months included in his years of service, and struck out provision rounding to next lower multiple of \$1 if average monthly compensation is not a multiple of \$1.

Subsec. (l). Pub. L. 97-35, §1118(g), designated existing provisions as subdiv. (1), substituted provisions that except as provided in subdiv. (2) of this subsection, if an annuity awarded under section 231a(a)(1)(iii) or under section 231a(c)(2) of this title is increased or decreased either by a change in law or by a recomputation, the reduction on account of age in the amount of such increase or decrease shall be computed as though such increased or decreased annuity amount had been in effect for and after month in which annuitant first became entitled to such annuity under section 231a(a)(1)(iii) or section 231a(c)(2) of this title, for provisions that in cases where an annuity awarded under section 231a(a)(1)(iii) or under section 231a(c)(2) of this title is increased either by a change in law or by a recomputation, the reduction for the increase in the annuity shall be determined separately and period with respect to which the reduction applies shall be determined as if such increase were a separate annuity payable for and after first month for which such increase is effective, and added subdiv. (2).

Subsec. (m). Pub. L. 97-35, §1118(h)(2), inserted “(before any deductions on account of work)” after “monthly benefit”.

Pub. L. 97-35, §1118(h)(1), substituted “shall, after any reduction pursuant to paragraph (iii) of section 231a(a)(1) of this title, be reduced” for “shall be reduced”.

1980—Subsec. (g). Pub. L. 96-582 designated existing provisions as subdiv. (1) and added subdiv. (2).

1977—Subsec. (f)(1). Pub. L. 95-216 substituted “Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited, in the case of wages paid before 1978, or in equal proportions with re-



spect to all months in the calendar year in which credited, in the case of self-employment income and in the case of wages paid after 1977” for “Wages and self-employment income included as compensation for purposes of this subdivision shall, in the absence of evidence to the contrary, be presumed to have been paid in equal proportions with respect to all months in the calendar quarter in which credited in the case of wages, or in equal proportions with respect to all months in the calendar year in which credited, in the case of self-employment income”.

#### EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by section 102 of Pub. L. 107-90 applicable to annuities that begin to accrue on or after Jan. 1, 2002, with exception for amount of the annuity provided for a spouse under section 231c(a) of this title, see section 102(d) of Pub. L. 107-90, set out as a note under section 231c of this title.

Amendment by section 103(b) of Pub. L. 107-90 effective Jan. 1, 2002, see section 103(j) of Pub. L. 107-90, set out as a note under section 405 of Title 42, The Public Health and Welfare.

Pub. L. 107-90, title I, §104(c), Dec. 21, 2001, 115 Stat. 882, provided that: “The amendments made by this section [amending this section and sections 231c and 231f of this title] shall take effect on January 1, 2002, and shall apply to annuity amounts accruing for months after December 2001.”

#### EFFECTIVE DATE OF 1983 AMENDMENT

Pub. L. 98-76, title I, §101(c), Aug. 12, 1983, 97 Stat. 412, provided that: “The amendments made by this section [amending sections 231b and 231c of this title] shall become effective on July 1, 1984, and shall apply only with respect to awards in cases where the individual’s annuity under section 2(a)(1) of the Railroad Retirement Act of 1974 [45 U.S.C. 231a(a)(1)] began to accrue on or after that date and the individual had not completed thirty years of service and attained age 60 prior to that date. In the case of an individual who has completed thirty years of service and has attained age 60 before January 1, 1986, the amount of the reduction on account of age in the annuity amount provided to such individual under section 3(a)(3) of the Railroad Retirement Act of 1974 [subsec. (a)(3) of this section] and the amount of the reduction on account of age in the annuity amount provided to the spouse of such individual under subdivision (3) of section 4(a) of the Railroad Retirement Act of 1974 [45 U.S.C. 231c(a)(3)] shall be only one-half of the amount by which such annuity would be reduced on account of age except for the provisions of this sentence.”

Pub. L. 98-76, title I, §102(d), Aug. 12, 1983, 97 Stat. 415, provided that: “The amendments made by this section [amending sections 231b and 231c of this title] shall be effective on the date of the enactment of this Act [Aug. 12, 1983]. For purposes of the amendments made by subsection (a) of this section [amending this section], annuity portions computed under subsections (b) and (d) of section 3 of the Railroad Retirement Act of 1974 [subsecs. (b) and (d) of this section] as in effect before October 1, 1981, shall be treated as having been computed under subsection (b) of such section as in effect after that date.”

Pub. L. 98-76, title I, §107(c), Aug. 12, 1983, 97 Stat. 419, provided that: “The amendments made by this section [amending this section] shall become effective on January 1, 1985.”

Pub. L. 98-76, title IV, §404(c), Aug. 12, 1983, 97 Stat. 435, provided that: “The amendments made by this section [amending this section] shall be effective October 1, 1983, and shall apply with respect to annuities awarded on or after that date.”

Pub. L. 98-76, title IV, §405(b), Aug. 12, 1983, 97 Stat. 435, provided that: “The amendments made by this section [amending this section] shall be effective October 1, 1981.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 1118(a), (d) of Pub. L. 97-35 effective on the later of Oct. 1, 1981, and the date, after

July 1, 1981, on which there is an increase in the rate of any tax imposed under chapter 22 of Title 26, Internal Revenue Code, and applicable only with respect to annuities awarded on or after such date, amendment by section 1118(b), (g) of Pub. L. 97-35 effective Oct. 1, 1981, amendment by section 1118(c)(2) of Pub. L. 97-35 effective Jan. 1, 1975, amendment by section 1118(e)(3) of Pub. L. 97-35 effective Aug. 31, 1981, amendment by section 1118(h)(2) of Pub. L. 97-35 effective Jan. 1, 1982, and amendment by other provisions of section 1118 of Pub. L. 97-35 effective Oct. 1, 1981 and applicable only with respect to annuities awarded on or after Oct. 1, 1981, see section 1129 of Pub. L. 97-35, set out as a note under section 231 of this title.

#### EFFECTIVE DATE OF 1980 AMENDMENT

Pub. L. 96-582, §3, Dec. 23, 1980, 94 Stat. 3374, provided that: “The provisions of this Act [amending this section] shall take effect on the date of the enactment of this Act [Dec. 23, 1980].”

#### EFFECTIVE DATE OF 1977 AMENDMENT

Pub. L. 95-216, title III, §358(b), Dec. 20, 1977, 91 Stat. 1556, provided that: “The amendments made by this section [amending this section] shall be effective January 1, 1978.”

### § 231c. Computation of spouse and survivor annuities

#### (a) Amount of spouses’ annuities; age

(1) The annuity of a spouse or divorced wife of an individual under section 231a(c) of this title shall be in an amount equal to the amount (before any reduction on account of age and before any deductions on account of work) of the wife’s insurance benefit or the husband’s insurance benefit to which such spouse or divorced wife would have been entitled under the Social Security Act [42 U.S.C. 301 et seq.] if such individual’s service as an employee after December 31, 1936, had been included in the term “employment” as defined in that Act.

(2) For purposes of this subsection, a spouse entitled to an annuity under section 231a(c)(1)(ii)(B) of this title shall be deemed to have attained retirement age (as defined in section 216(l) of the Social Security Act [42 U.S.C. 416(l)]<sup>1</sup>.

(3) If a spouse entitled to an annuity under section 231a(c)(1)(ii)(A), section 231a(c)(1)(ii)(C), or section 231a(c)(2) of this title or a divorced spouse entitled to an annuity under section 231a(c)(4) of this title on the basis of the employment record of an employee who will have completed less than 10 years of service is entitled to a benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act [42 U.S.C. 402(a), (b), (c)] which began to accrue before the annuity under section 231a(c)(1)(ii)(A), section 231a(c)(1)(ii)(C), section 231a(c)(2), or section 231a(c)(4) of this title, the annuity amount provided under this subsection shall be computed as though the annuity under this subchapter began to accrue on the later of (A) the date on which the benefit under section 202(a), section 202(b), or section 202(c) of the Social Security Act began or (B) the first date on which the annuitant met the conditions for entitlement to an age reduced annuity under this subchapter other than the conditions set forth in

<sup>1</sup> So in original. Probably should be followed by a closing parenthesis.